

E-Filed On: December 19, 2007

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*Counsel for Compass Financial Partners LLC*

**UNITED STATES BANKRUPTCY COURT  
 DISTRICT OF NEVADA**

In re:  
 USA COMMERCIAL MORTGAGE COMPANY,  
 Debtor.

In re:  
 USA CAPITAL REALTY ADVISORS, LLC,  
 Debtor.

In re:  
 USA CAPITAL DIVERSIFIED TRUST DEED  
 FUND, LLC,  
 Debtor.

In re:  
 USA CAPITAL FIRST TRUST DEED FUND,  
 LLC,  
 Debtor.

In re:  
 USA SECURITIES, LLC,  
 Debtor.

BINFORD MEDICAL DEVELOPERS, LLC, an  
 Indiana Limited Liability Company,

Plaintiff,

vs.

COMPASS FINANCIAL PARTNERS, LLC,  
 and FIDELITY NATIONAL TITLE GROUP,

Defendants.

Case No. BK-S-06-10725 LBR  
 Case No. BK-S-06-10726 LBR  
 Case No. BK-S-06-10727 LBR  
 Case No. BK-S-06-10728 LBR  
 Case No. BK-S-06-10729 LBR

Chapter 11  
 Jointly Administered Under  
 Case No. BK-S-06-10725 LBR  
**Adversary No. 06-1212 LBR**

**NOTICE OF ENTRY OF ORDER  
 SHORTENING TIME TO HEAR  
 MOTION TO APPROVE SETTLEMENT  
 AND COMPROMISE OF CLAIM AND  
 NOTICE THEREOF and CERTIFICATE  
 OF MAILING**

**Date: January 11, 2007**

**Time: 9:30 a.m.**

**Place: Foley Federal Building  
 300 Las Vegas Blvd. So, 3<sup>rd</sup> Floor  
 Las Vegas, NV 89101**

**Bullivant|Houser|Bailey PC**  
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1 COMPASS FINANCIAL PARTNERS, LLC,  
 2 Counterclaimant,  
 3 vs.  
 4 BINFORD MEDICAL DEVELOPERS LLC,  
 an Indiana Limited Liability Company,  
 5 Counterdefendant.

6  
 7 PLEASE TAKE NOTICE that an Order Shortening Time To Hear Motion To Approve  
 8 Settlement And Compromise Of Claim And Notice Thereof (the "Order") was entered on the  
 9 Court's docket on December 18, 2007. A copy of the Order is attached hereto.

10 BULLIVANT HOUSER BAILEY PC

11  
 12 By: Georganne W. Bradley  
 13 Georganne W. Bradley (NV Bar No. 1105)  
 14 3883 Howard Hughes Pkwy., Ste. 550  
 Las Vegas, Nevada 89169

15 *Attorneys for Compass Financial Partners LLC*  
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**CERTIFICATE OF MAILING**

1. On December 19, 2007, the following document was served:

**NOTICE OF ENTRY OF ORDER SHORTENING TIME TO HEAR  
MOTION TO APPROVE SETTLEMENT AND COMPROMISE OF  
CLAIM AND NOTICE THEREOF**

2. The above-named documents were served by the following means to the persons listed below:

- ☒ a. ECF System.
- ☐ b. United States mail, postage full prepaid to the following:
- ☐ c. Personal service.

I personally delivered the documents to the persons at these addresses:

☐ For a party represented by an attorney, delivery was made by handing the documents at the attorney's office with a clerk or other person in charge, or if no one is in charge, by leaving the documents in a conspicuous place in the office.

☐ For a party, delivery was made by handing the documents to the party or by leaving the documents at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there.

☐ d. By direct email.

I caused the documents to be sent to the persons at the email addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ e. By fax transmission.

Based upon the written agreement of the parties to accept service by fax transmission or a court order, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission is attached.

☐ f. By messenger.

I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a messenger for service.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 19th day of December, 2007.

/s/ Mary A. Opatrny  
Name: Mary A. Opatrny  
an employee of Bullivant Houser Bailey PC

BullivantHouserBailey PC  
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Las Vegas, NV 89169  
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Entered on Docket  
December 18, 2007

Hon. Linda B. Riegler  
United States Bankruptcy Judge

Peter C. Bernhard, NV Bar No. 734  
Georganne W. Bradley, NV Bar No. 1105  
Timothy J. Geswein, NV Bar No. 10049  
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Counsel for Compass Financial Partners LLC

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re: USA COMMERCIAL MORTGAGE COMPANY, Debtor.	Case No. BK-S-06-10725 LBR Case No. BK-S-06-10726 LBR Case No. BK-S-06-10727 LBR
In re: USA CAPITAL REALTY ADVISORS, LLC, Debtor.	Case No. BK-S-06-10728 LBR Case No. BK-S-06-10729 LBR
In re: USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC, Debtor.	Chapter 11 Jointly Administered Under Case No. BK-S-06-10725 LBR
In re: USA CAPITAL FIRST TRUST DEED FUND, LLC, Debtor.	Adversary No. 06-1212 LBR
In re: USA SECURITIES, LLC, Debtor.	<b><u>ORDER SHORTENING TIME TO HEAR MOTION TO APPROVE SETTLEMENT AND COMPROMISE OF CLAIM AND NOTICE THEREOF</u></b>
BINFORD MEDICAL DEVELOPERS, LLC, an Indiana Limited Liability Company, Plaintiff,	<b>Date:</b> January 11, 2008 <b>Time:</b> 9:30 a.m. <b>Place:</b> <b>Foley Federal Building</b> 300 Las Vegas Blvd., South, 3 <sup>rd</sup> Fl. Las Vegas, Nevada 89101

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1		
2	vs.	
3	COMPASS FINANCIAL PARTNERS, LLC,	
4	and FIDELITY NATIONAL TITLE GROUP,	
5	Defendants.	
6	COMPASS FINANCIAL PARTNERS, LLC,	
7	Counterclaimant,	
8	vs.	
9	BINFORD MEDICAL DEVELOPERS LLC,	
10	an Indiana Limited Liability Company,	
11	Counterdefendant.	

12 TO: ALL PARTIES IN INTEREST

13 PLEASE TAKE NOTICE THAT upon an Ex Parte Application for Order Shortening  
 14 Time to Hear Motion to Approve Settlement and Compromise of Claim (the "Motion"), and  
 15 good cause appearing, the Court finds that there is a situation which justifies shortening the time  
 16 for hearing; and it is

17 ORDERED THAT the hearing on the Motion will be heard before a United  
 18 States Bankruptcy Judge in the Foley Federal Building, 300 Las Vegas Boulevard South,  
 19 Courtroom 1, Las Vegas, Nevada, on January 11, 2008 at the hour of 9:30 a.m. ; and it  
 20 is further

21 ORDERED THAT any opposition to the Motion must be filed no later than  
 22 Januray 3, 2008. Replies shall be filed by January 8, 2008.

23 PLEASE TAKE FURTHER NOTICE THAT Compass, by and through the Motion, is  
 24 seeking an order from this Court approving a settlement agreement that was reached by and  
 25 between Compass and Binford Medical Developers, LLC ("Binford") after participating in a  
 26 settlement conference with Judge Nakagawa on November 6, 2007. In addition to resolving the  
 27 claims asserted in the complaint and counterclaim filed by the parties in the above-captioned  
 28 adversary proceeding, the settlement includes a compromise of Binford's claim asserted by and



1 through its Proof of Claim filed in the USACM Chapter 11 case, and includes a resolution of the  
2 l made by 92 "Direct Lenders" to Binford in 2005 and 2006. The terms and conditions of the  
3 settlement were memorialized in a written Settlement Agreement, a copy of which is attached to  
4 the Motion. The following is a summary of the material terms of the settlement:

5 A. The parties agree that the allowable debt due and owing by Binford to the  
6 Direct Lenders and Compass on the Binford Loan, as of November 6, 2007, is  
7 \$10,521,978.52, with respect to which the Borrower has no defense or right of offset or  
8 recoupment;

9 B. The parties agree that, as of November 6, 2007, the "as-is", fair market  
10 value of the Property is approximately \$5.4 million, the liquidation value of the Property  
11 is approximately \$4.1 million, and the value of the Property on a fully built-out, leased,  
12 and stabilized basis, assuming 12 months of marketing, is approximately \$6.66 million;

13 C. Binford will pay Compass (on behalf of the Direct Lenders) the sum of  
14 \$5.4 million at a closing date to occur no earlier than the later of (i) the 11th day  
15 following the entry of this Court's order approving the settlement, and (ii) March 31,  
16 2008 (the "Closing Date");

17 D. Effective as of the Closing Date, Binford, the Guarantor of the Binford  
18 Loan, and Binford's general contractor will dismiss with prejudice all claims against  
19 Compass and the Direct Lenders in the State Court Action currently pending in Indiana;

20 E. Effective as of the Closing Date, Compass and the Direct Lenders will  
21 consent to the release to the Contractor of the Fidelity Escrow Amount currently held in  
22 the registry of the Indiana State Court;

23 F. Effective as of the Closing Date, Binford, the Guarantor, Compass, and  
24 the Direct Lenders will exchange mutual releases and Binford and Compass will file  
25 dismissals with prejudice in this adversary proceeding;

26 G. Effective as of the Closing Date, Compass and the Direct Lenders will  
27 exonerate and release the Guarantor on his personal guaranty;  
28

H. Binford's \$3,502,383.00 unsecured claim against the USACM chapter 11 estate shall be reduced to and allowed in the amount of \$925,000.000;

I. Compass shall not be prevented from, and may, continue to pursue the Foreclosure Action to a judgment or decree of foreclosure; provided, however, that Compass may not schedule or complete a foreclosure sale of the Property on a date on or prior to the Closing Date; and

J. The effectiveness of the settlement is subject to the satisfaction prior to the Closing Date of each of the following conditions precedent: (a) unconditional approval of the Discounted Payoff amount by the Direct Lenders; (b) entry of an Order from this Court approving the Settlement Agreement; (c) approval by the USACM Liquidating Trust of an allowed unsecured claim of \$925,000.00 in favor of Binford; and (d) the Contractor's agreement to dismiss any claims against Compass and the Direct Lenders with prejudice.

A copy of the filed Motion may be obtained by accessing PACER through the United States Bankruptcy Court website for Nevada at [www.nvb.uscourts.gov](http://www.nvb.uscourts.gov), or by contacting the office of Compass Financial Partners, LLC's Nevada counsel, Bullivant Houser Bailey PC, telephone: (702) 669-3600 or fax (702) 650-2995.

Submitted by:

BULLIVANT HOUSER BAILEY PC

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